



STATE OF CONNECTICUT
JUDICIAL BRANCH

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Testimony of the Judicial Branch
Judiciary Committee Public Hearing
March 18, 2016

S.B. 454, An Act Concerning Automatic Erasure of Criminal Records

Thank you for the opportunity to submit written testimony on behalf of the Judicial Branch regarding *S.B. 454, An Act Concerning Automatic Erasure of Criminal Records*. The Branch has concerns with this bill as drafted.

The Judicial Branch would respectfully point out that erasure of a dismissed case is already automatic following the expiration of time to file an appeal or writ of error. The reference on line 9 to erasure "immediately upon dismissal" would preclude the state from ever filing an appeal or writ of error, and is internally inconsistent with the next line which provides for erasure following the expiration of time to file an appeal or writ of error. Additionally, in cases of wrongful arrest due to mistaken identity or another reason, if that person is released without being charged, a court file would never be created.

The Branch is also concerned about the notification requirements imposed on lines 78 to 85. Notifying the subject of any case at the time of erasure of that case would result in tens of thousands of additional letters being sent by the court each year. This would be a substantial cost to the Branch. Also, in some instances such as nolle, a case may not be erased until over a year following the defendant's last court appearance.

The court would need to send notice of the erasure to the last known address of the defendant, and would have no way of knowing if that address was still correct.

With regard to the record destruction requirements on lines 75 to 85, some of the documents listed are critical court records. Destroying such documents could potentially have a negative impact on the subject of the record, for instance if that person was to bring an action for false arrest. Furthermore, statutes and rules already exist governing the destruction of court records. As such, we believe that court records should not be subject to the destruction described on lines 75 to 85.

We would also respectfully note that in the case of a pardon, the Board of Pardons and Paroles already sends notification of the pardon and subsequent erasure. As the Branch itself often does not receive notice of the pardon in a timely manner, it would be difficult to comply with the 60-day notice requirement imposed on line 78 of this bill.

Finally, this proposal would require the Branch to make numerous significant and costly computer changes. The language beginning on line 78 of the bill would require the court to distinguish between different reasons for dismissal, which our current system cannot do. The additional notification requirements on lines 90 to 95 would also require time to implement and the expenditure of significant resources.

Thank you for the opportunity to submit written testimony on this bill.